

October 23, 2015

Ms. Haley Martin  
Daft McCune Walker, Inc.  
501 Fairmount Avenue, Suite 300  
Towson, Md. 21286

Re: Vaughn Green Funeral Home  
Forest Conservation Variance  
Tracking # 04-15-2096

Dear Ms. Martin:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 6 Forest Conservation was received by this Department for the above referenced site on October 8, 2015. If granted, the variance would allow the removal of four (4) specimen trees in order to construct a new building and stormwater facility on an existing funeral home site. The four specimen trees to be removed are within forest to be cleared. They include: a 32-inch DBH tulip poplar in fair condition; a 32-inch DBH red oak in good condition; a 35-inch DBH green ash; and, a 32-inch DBH green ash in good condition.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant requests to remove four specimen trees in order to make improvements to an existing funeral home, which cannot be redesigned due to the size and configuration of the property. Full application of the law would prohibit these improvements to the property but would not deprive the petitioner of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general

conditions of the neighborhood. The need for the variance described above is due to unique circumstances associated with the location of the specimen trees relative to the proposed improvements rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Granting the variance to remove four specimen trees would allow expansion of an existing funeral home that has been within the mixed residential and commercial neighborhood for decades. Therefore, we find that the requested variance would not alter the essential character of the neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The elimination of four specimen trees will not impact wetlands, streams, or water quality. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions necessitating this variance request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Although all 1.4 acres of forest onsite, including the four specimen trees, would be removed, all forest conservation requirements for this project will be fully met. Furthermore, the forest to be cleared is part of a small forest patch that has been fragmented over time by neighborhood development. Therefore, we find that this variance would be consistent with the spirit and intent of law and that this criterion has been met.

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code. No mitigation will be required for removal of the four specimen trees given that they are within forest to be cleared and mitigated elsewhere in accordance with an EPS-approved forest conservation plan. Consequently, a final forest conservation plan acknowledging this variance must be approved by this Department prior to EPS approval of any grading plan or permit, whichever comes first.

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It is the intent of this Department to grant this variance subject to any conditions cited herein. Any changes to site layout may require submittal of revised plans and a new variance request.

If you have any questions regarding this correspondence, please call Mr. John Russo at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

- c. Marian Honeczy, Maryland Dept. of Natural Resources  
M&G Property Management Five LLC

VJG/jgr